

DIRECTOR OF CENTRAL INTELLIGENCE
Security Committee

SECOM-D-482

MEMORANDUM FOR: Director of Central Intelligence

VIA: General Counsel

FROM: Robert W. Gambino
Chairman

SUBJECT: Guidelines for the Development of
SCI Appeals Procedures

1. Action Requested: That you approve the attached proposed Annex to DCID 1/14.

2. Background and Discussion: In November 1978, a Security Committee Working Group submitted a recommended Annex to DCID 1/14 to accomplish the objective of the establishment of minimum guidelines for the development of Sensitive Compartmented Information (SCI) appeals procedures by each Senior Intelligence Officer (SIO). The Security Committee Principals were invited to submit written comments. With the exception of the National Security Agency (NSA) representative, there was agreement as to the scope and need for such procedures. The NSA representative advised that the NSA General Counsel advised him not to concur, and that "there has not yet been adequate legal analysis of the desirability or necessity of establishing such procedures."

All of the Security Committee Principals were encouraged to refer the matter to their legal staffs in view of the potential legal issues involved. None of the agencies questioned the legality of the proposal as such. Three agencies, including the CIA General Counsel and the Office of Legal Counsel, Department of Justice, provided comments of a policy nature and other comments designed to accomplish greater clarity and internal consistency which would also possibly avoid future legal problems. Most of these comments have been incorporated in the attached draft.

The CIA General Counsel, in addition to the foregoing, expressed serious reservation about the proposed detail and scope of the Annex and recommended that the final denial authority rest with the DCI as opposed to the individual SIO. As indicated above, all of the other Agencies/ Departments believe that minimum guidelines should be established for their guidance and that their SIO should be the final denial authority. I believe the latter position is the better alternative under the circumstances that exist, and that we should, subject to final National Foreign Intelligence Board (NFIB) approval, go forward with the attached recommendations. I take this position because it is consistent with the delegation of authority to the SIO's to initiate investigations, adjudicate the results, and grant access approvals to SCI candidates subject to the minimum guidelines as set forth in the basic directive. I am further convinced that the attached draft will provide for a streamlined, relatively uniform appeals procedure within the Intelligence Community which is long overdue.

3. Recommendation: Your approval of the attached proposed Annex subject to further action.

Robert W. Gambino

Attachment

SUBJECT: Guidelines for the Development of SCI
Appeals Procedures

APPROVED: _____
Director of Central Intelligence

DISAPPROVED: _____
Director of Central Intelligence

DATE: _____

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